

APPEAL NO. 022986
FILED JANUARY 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 28, 2002. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is 10% as assessed by the designated doctor, whose opinion was not contrary to the great weight of the other medical evidence.

The claimant appeals, alleging a number of matters beyond the jurisdiction of the dispute resolution process to address and asserting generally that her compensable injuries to the shoulders were not rated. The claimant wants a "different doctor's opinion on the [IR]." The file does not contain a response from the respondent (self-insured).

DECISION

Affirmed.

The claimant, a psychiatric nurse, sustained a compensable injury on _____. The parties stipulated that the claimant reached maximum medical improvement (MMI) on August 19, 1997. Dr. S, in a Report of Medical Evaluation (TWCC-69) and narrative dated June 13, 1997, certified MMI and assessed an 8% IR based on 6% cervical impairment and 2% thoracic impairment from Table 49 of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association (AMA Guides). Dr. K was the Texas Workers' Compensation Commission (Commission)-selected designated doctor who in a report dated August 20, 1997, assessed an 18% IR based on 2% impairment loss of lumbar range of motion (ROM), 8% impairment loss of cervical ROM and loss of ROM of both upper extremities which converted to 4% IR for both the right and left shoulders.

Dr. K's IR was reviewed by the self-insured's peer review doctor who in a report dated November 10, 1997, opined that the allowances for ROM loss of the shoulders were questionable because the shoulder ROM was relatively symmetrical which indicated that was the claimant's "normal ranges of motion." That report was made available to Dr. K who agreed with the peer review doctor and amended his IR to delete the 8% for bilateral shoulder ROM to result in a 10% IR based on 8% impairment for loss of cervical ROM and 2% impairment for lumbar loss of ROM. No assessment was made from Table 49 of the third edition of the AMA Guides.

The parties argued whether a rating for the shoulders should be included in the IR, although we note that extent of injury was not an issue. The claimant contends that her treating doctor, Dr. C, stated that the shoulders were part of the compensable injury. While it may be true that Dr. C in one report did make that conclusory statement,

numerous other notes indicated that the claimant “had full shoulder movements,” that etiology of the shoulder pain was “unknown,” and that Dr. C was “unable to state that this is or is not related to her injury.” We also note that the claimant was involved in a nonwork related rear-end motor vehicle accident in January 1998.

The claimant makes numerous other allegations in her appeal to the effect that she cannot afford (or find) an attorney to represent her; that the self-insured has refused to pay her treating doctor (Dr. C); and that she has been discriminated against by her employer because the self-insured refuses to rehire her. Those complaints are beyond the scope and jurisdiction of the hearing officer to resolve.

Section 408.125(e) provides that the report of the designated doctor “shall have presumptive weight” unless the great weight of the other medical evidence is to the contrary. Tex. W.C. Comm’n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that a designated doctor’s response to the Commission’s request for clarification is also “considered to have presumptive weight as it is part of the doctor’s opinion.” The hearing officer did not err in determining that the claimant’s IR was 10% as assessed in Dr. K’s amended report.

After review of the record before us and the complained-of determination, we have concluded that there is sufficient legal and factual support for the hearing officer’s decision. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**PRESIDENT/CEO
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge